

Message Text

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44

ACTION ARA-10

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E.O. 11652: N/A

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SUBJECT: GCOB RESPONSE TO EMBASSY NOTE OF APRIL 2, 1975
ON SPINY LOBSTER

REF: NASSAU 1085

1. THE FOLLOWING NOTE WAS RECEIVED TODAY FROM THE MINISTRY OF
EXTERNAL AFFAIRS: QUOTE

NO 102

THE MINISTRY OF EXTERNAL AFFAIRS OF THE COMMONWEALTH OF THE
BAHAMAS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE
UNITED STATES OF AMERICA AND HAS THE HONOR TO REFER TO THE
EMBASSY'S NOTE NO 28 OF 2ND APRIL 1975 AND TO THE MINISTRY'S
NOTE NO 31 OF 17TH MARCH, 1975 ALSO REGARDING BAHAMIAN
LEGISLATION WHICH ENABLES THE BAHAMIAN SPINY LOBSTER, OTHERWISE
KNOWN AS PANULIRUS ARGUS, TO BE ADDED TO THE LIST OF
CONTINENTAL SHELF FISHERIES RESOURCES WHICH APPERTAIN TO THE
COMMONWEALTH OF THE BAHAMAS.

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IN RESPONSE TO THE POINTS UPON WHICH THE EMBASSY

REQUESTED CLARIFICATION CONCERNING THE MINISTRY'S NOTE NO 31
OF MARCH 17TH 1975 THE MINISTRY HAS THE HONOR TO OFFER THE
FOLLOWING OBSERVATIONS.

(1) IT WAS AND IS THE VIEW OF THE MINISTRY THAT
PRIOR TO THE COMMENCEMENT OF THE 1975-76 BAHAMIAN
LOBSTER SEASON DISCUSSIONS OUGHT TO BE COMMENCED
TO ASSIST IN DETERMINING WHETHER THERE WAS A BASIS FOR AGREEMENT
BETWEEN OUR RESPECTIVE GOVERNMENTS HAVING REGARD TO THE IMPLI-
CATIONS OF THE PROVISIONS OF THE FISHERIES ACT WHICH PROVIDE
THAT "WHERE THE GOVERNMENT, CONSIDERING IT TO BE IN THE
NATIONAL INTEREST TO DO SO, HAS CONCLUDED AN AGREEMENT BETWEEN
THE BAHAMAS AND A FOREIGN STATE FOR RECIPROCAL FISHING RIGHTS BY
VESSELS OWNED BY CITIZENS OF THAT FOREIGN STATE, SUBJECT
TO AND IN ACCORDANCE WITH ANY TERMS OR CONDITIONS CONTAINED
IN THAT AGREEMENT OR OTHERWISE IMPOSED BY THE GOVERNMENT." THE
MINISTRY IS AVAILABLE TO THE EMBASSY TO COMMENCE SUCH
DISCUSSIONS AT ANY MUTUALLY CONVENIENT DATE.

(2) THE MINISTRY IS CONCERNED OF THE LIKELIHOOD OF PROBLEMS
WITH NATIONALS FALLING UNDER THE JURISDICTION OF THE EMBASSY'S
GOVERNMENT, ARISING AS A RESULT OF THE ENFORCEMENT OF THE
LEGISLATION. THE MINISTRY IS HOWEVER OF THE OPINION THAT SUCH
PROBLEMS MAY BE MINIMISED IF NOT TOTALLY AVERTED
WERE NATIONALS SUBJECT TO THE JURISDICTION OF THE EMBASSY'S
GOVERNMENT TO RESPECT, RATHER THAN VIOLATE THE FISHERIES
LAWS OF THE COMMONWEALTH OF THE BAHAMAS. THE MINISTRY ATTACHES
IMPORTANCE TO THIS AS A PRECONDITION TO ANY PROPOSAL
RELEVANT TO BILATERAL AGREEMENT.

(3) AS COMMUNICATED TO THE EMBASSY VIA PARAGRAPH 4 OF THE
MINISTRY'S NOTE UNDER REFERENCE, BAHAMIAN LAW ENFORCEMENT
OFFICERS WILL ACT WITH DISCRETION DURING A SHORT PERIOD TO
ALLOW FISHERMEN OPERATING IN THE AREA TO BECOME FAMILIAR
WITH THE NEW LEGISLATION WITH REGARD TO BAHAMIAN LOBSTER
BEFORE ENFORCING THE LAW TO THE FULLEST EXTENT. THIS INTERIM
ACCOMMODATION WILL BE EXTENDED NOT ONLY TO THE UNITED STATES
VESSELS, BUT ALSO TO VESSELS OF OTHER NATIONALITIES
WHICH MAY HAVE OPERATED IN THE AREA AFFECTED BY THE
LEGISLATION AND IS NOT AT ALL RELATED NOR CONNECTED WITH
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THE QUESTION OF BILATERAL DISCUSSIONS BETWEEN OUR RESPECTIVE
GOVERNMENTS.

(4) THE LEGISLATION IS APPLICABLE TO THE CONTINENTAL
SHELF WHICH APPERTAIN TO THE COMMONWEALTH OF THE
BAHAMAS. THE TERM CONTINENTAL SHELF AS USED IN THIS NOTE
AND THE LEGISLATION MEANS THOSE AREAS OF THE SEABED, SUBSOIL
AND SUBMARINE AREAS AS DEFINED IN ARTICLE 1 OF THE 1958

CONVENTION ON THE CONTINENTAL SHELF AND THE CONTINENTAL SHELF
ACT OF 1970. THE AREAS OF THE CONTINENTAL SHELF OF THE
COMMONWEALTH OF THE BAHAMAS FREQUENTED BY BAHAMIAN LOBSTER
AND OFF WHICH SUCH LOBSTER IS CAUGHT ARE THE BAHAMA BANKS,
OVER WHICH THE SOVERIGNTY OF THE COMMONWEALTH OF THE BAHAMAS
IS UNDISPUTED AND OVER WHICH THERE IS NO PROBLEM OF
GEOGRAPHIC DELIMITATION FOR THE PURPOSES OF THIS NOTE. THE
GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS DOES NOT FORESEE
ANY DIFFICULTIES ON THE QUESTION OF THE DELIMITATION
OF JURISDICTION BETWEEN THE UNITED STATES OF AMERICA AND
THE COMMONWEALTH OF THE BAHAMAS WITH RESPECT TO THOSE AREAS.
THE MINISTRY WOULD FURTHER REFER TO THE BAHAMAS (ALTERATION OF
BOUNDARIES) ORDER IN COUNCIL 1948 WHICH PROVIDES THAT "THE
BOUNDARIES OF THE COLONY OF THE BAHAMAS ARE HEREBY
EXTENDED TO INCLUDE THE AREA OF THE CONTINENTAL
SHELF WHICH LIES BENEATH THE SEA CONTIGUOUS TO THE COASTS
OF THE BAHAMAS".

(5) IT IS THE FURTHER VIEW OF GOVERNMENT THAT TE
AREAS OF THE CONTINENTAL SHELF WHICH MAY BE
ADJACENT TO THE COASTS OF OUR RESPECTIVE COUNTRIES
AND THEREFORE SUBJECT TO THE DELIMITATION PROCEDURES
OUTLINED IN ARTICLE 6 OF 5#3 1958 CONTINENTAL SHELF
CONVENTION ARE NOT THE AREAS OF THE BAHAM BANKS.

COMPLIMENTARY CLOSE UNQUOTE

2. COMMENTS FOLLOW SEPTTEL.
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